

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DOMINGO COLON-MONTANEZ,)	
)	
Plaintiff,)	
)	Civil Action No. 06-161
v.)	Judge Hardiman
)	Magistrate Judge Caiazza
MICHAEL OPPMAN, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

On February 2, 2006, this case was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§636(b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On November 8, 2006, the magistrate judge issued a Report and Recommendation (Doc. No. 31) recommending that Plaintiff's action be dismissed as frivolous under 28 U.S.C. §1915(e)(2), and that all pending motions be denied as moot.

The Report and Recommendation was served on Plaintiff by First Class United States Mail delivered to the State Correctional Institution at Fayette, LaBelle, Pennsylvania, where he is incarcerated and on Defendants via electronic notice. Plaintiff filed objections on December 18, 2006 (Doc. No. 35).

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following ORDER is entered:

AND NOW, this 20th day of December, 2006, it is hereby

ORDERED that Plaintiff's action is dismissed as frivolous under 28 U.S.C.

§1915(e)(2)(B) and *Ezekoye v. Ocwen Federal Bank FSB*, 179 Fed. Appx. 111, 114 (3d Cir. 2006) (per curiam) (holding that issue preclusion is a proper ground for dismissal under §1915(e)(2)(B)), as well as for the reasons stated in the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of the Court.

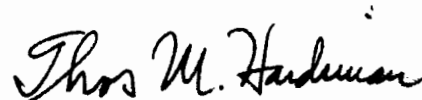
This Court certifies that pursuant to 28 U.S.C. §1915(a)(3), any appeal from this Order would not be taken in good faith.

It is further ORDERED that Plaintiff's pending motions (Docs. Nos. 28, 30 & 32) are DENIED as moot.

The Clerk is directed to mark the case CLOSED.

December 20, 2006

BY THE COURT:

A handwritten signature in cursive script, reading "Thomas M. Hardiman".

Thomas M. Hardiman
United States District Judge